



STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION
PO Box 429
TRENTON, NEW JERSEY 08625-0429

For Courier Delivery
495 West State St.
Trenton, NJ 08618

UNFAIR PRACTICE CHARGE

File an original and 9 copies of this charge with the Director of Unfair Practices, Public Employment Relations Commission, together with proof of the simultaneous service of a copy of the charge on the respondent(s). See Instructions on back.	DO NOT WRITE IN THIS SPACE
	DOCKET NO. DATE FILED:
1. CHARGING PARTY	
Full Name: Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO	County: Middlesex
Address of Charging Party (Street and Number, City, State and Zip Code): 11 Stone Street, New Brunswick, New Jersey 08901-1113	
Name and Title of Representative to Contact: Adrienne Eaton, President	Telephone No.: (732) 964-1000
Attorney/Consultant Representing Charging Party (if any): Steven P. Weissman, Esq.	Telephone No.: (732) 563-4565
Attorney/Consultant Address (Street and Number, City, State and Zip Code): One Executive Drive, Suite 200, Somerset, New Jersey 08873	
2. RESPONDENT(S) (<i>Public employer and/or employee organization against whom charge is made</i>)	
Full Name: Rutgers, The State University of New Jersey	County: Middlesex
Address of Respondent(s) (Street and Number, City, State and Zip Code): 85 Somerset Street, Geology Hall, Suite 105, New Brunswick, New Jersey 08901	
Name and Title of Representative to Contact: Sean Spinello, Director, Office of Academic Labor Relations	Telephone No.: (732) 932-7174
Attorney/Consultant Representing Respondent(s) (if any): John Peirano, McElroy Deutsch Mulvaney & Carpenter	Telephone No.: (973) 425-8711
Attorney/Consultant Address (Street and Number, City, State and Zip Code): 1300 Mount Kemble Ave., P.O. Box 2075, Morristown, New Jersey 07962-2075	
3. STATEMENT OF CHARGE (<i>See instructions on back</i>)	
Pursuant to the New Jersey Employer-Employee Relations Act, as amended, the charging party hereby alleges that the above-named respondent(s) has (have) engaged or is (are) engaging in an unfair practice within the meaning of N.J.S.A. 34:13A-5.4(a), subsection(s) (1) & (5) and/or N.J.S.A. 34:13A-5.4(b), subsection(s) _____, in that: _____ (List subsections) (List subsections)	
Please see attached.	
(Indicate whether additional sheets are attached)	

4. REMEDY SOUGHT (State the remedy you request the Commission to order)

Please see attached.

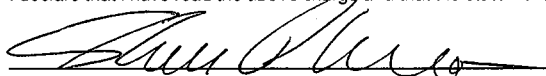
(Indicate whether additional sheets are attached)

5. CHECK ALL PETITIONS AND/OR CHARGES FILED RECENTLY OR SIMULTANEOUSLY WITH THIS CHARGE.
(Indicate date(s) filed and docket number(s) assigned, if available)

<input type="checkbox"/>	Petition to Initiate Compulsory Interest Arbitration Docket No. _____ Date Filed: _____	<input type="checkbox"/>	Request for Submission of Panel of Arbitrators Docket No. _____ Date Filed: _____
<input type="checkbox"/>	Notice of Impasse Docket No. _____ Date Filed: _____	<input type="checkbox"/>	Scope of Negotiations Petition Docket No. _____ Date Filed: _____
<input type="checkbox"/>	Representation Petition Docket No. _____ Date Filed: _____	<input type="checkbox"/>	Petition for Issue Definition Determination Docket No. _____ Date Filed: _____
<input type="checkbox"/>	Petition for Contested Transfer Determination Docket No. _____ Date Filed: _____	<input type="checkbox"/>	Other Unfair Practice Charge(s) Docket No. _____ Date Filed: _____
<input type="checkbox"/>	Related Filings At Other Administrative Agencies Docket No. _____ Date Filed: _____	<input type="checkbox"/>	Other (explain)

6. CERTIFICATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.


Signature

Title

6-22-2010
Date

INSTRUCTIONS FOR FILING AN UNFAIR PRACTICE CHARGE

1. Type or clearly print all information.
2. Fill in all sections of the charge.
3. Under "Statement of Charge" provide a clear and concise statement of the facts constituting the alleged unfair practice.
Be sure to:
 - a. list the subsections of the Act alleged to have been violated.
 - b. specify the time and place the alleged acts occurred and the names of the persons alleged to have committed such acts.
- Attach additional sheets if necessary.
4. State specifically the remedy you are asking the Commission to order.
5. Indicate all related petitions and charges by "checking" the appropriate boxes and filling in the Docket No. and Date Filed.
6. Sign the Certification above.
7. File an original and nine copies with the Director of Unfair Practices, Public Employment Relations Commission.
8. Include with your filing proof that you served a copy of the charge on the respondent(s). Proof can take the form of a statement explaining how, when and on whom the charge has been served.

Statement of the Charge:

1. The Rutgers Council of AAUP Chapters, AAUP-AFT, AFL-CIO (“AAUP-AFT”) and Rutgers, the State University of New Jersey (“Rutgers”) are parties to a collective negotiations agreement covering all full-time faculty members, teaching assistants (“TA”) and graduate assistants (“GA”), with a term of July 1, 2007 through June 30, 2011 (“Faculty CNA”). Article VIII of the Faculty CNA sets forth salary increases due to full-time faculty members on July 1, 2009 and July 1, 2010. Article VIII further sets forth an 8% salary increase for TAs and GAs on July 1, 2009 and July 1, 2010.

2. The AAUP-AFT and Rutgers are also parties to a collective negotiations agreement covering all regular, full-time EOF Senior Counselors and EOF Counselors, with a term of July 1, 2007 through June 30, 2011 (“EOF CNA”). Article 8 of the EOF CNA sets forth salary increases due to counselors on July 1, 2009 and July 1, 2010.

3. On August 7, 2009, the parties entered into a Memorandum of Agreement (“Faculty MOA”) and a Letter of Agreement (“LOA”), which modified certain terms of the Faculty CNA.

4. On December 22, 2009, the parties entered into a second Memorandum of Agreement (“EOF MOA”) which modified certain terms of the EOF CNA.

5. In late June 2009, the FY 2010 Appropriations Act was passed by the Legislature and signed by the Governor. The FY 2010 Act conditioned state appropriations to Rutgers on personnel related cost saving equivalent to the FY 2010 savings that the negotiated self-directed furlough program for State employees sought to achieve.

6. Throughout the summer and fall of 2009, the AAUP-AFT met with representatives of Rutgers’ management. Rutgers acknowledged that it could pay the FY 2010 increases, but claimed that the Appropriations Act necessitated the modification of existing collective negotiations agreements to avoid the loss of State funds and to ensure the receipt of federal stimulus funds.

7. During negotiations with the AAUP-AFT, Rutgers acknowledged that there likely would be further reductions in State funding for FY 2011.

8. The AAUP-AFT entered into negotiations with Rutgers in an effort to achieve savings in fiscal years 2010 and 2011. The object of negotiations was to generate savings through June 30, 2011 and to ensure that by the end of the parties’ CNAs base salaries would be increased by all negotiated salary increases due under the 2007-2011 negotiated agreements

9. To achieve this savings, the parties agreed to defer the 2.75% regular faculty salary increases due on July 1, 2009 until January 1, 2010 and the 2.75%

enhanced salary increases, also due on July 1, 2009, until July 1, 2010. The salary increases due on July 1, 2010 were also deferred. The Faculty MOA expressly recognized the “anticipated continuing budget limits for fiscal year 2011” and modified Article VIII of the Faculty CNA to achieve savings in fiscal years 2010 and 2011.

10. During negotiations the parties agreed that there would be no deferral of the 8% regular salary increases due to TAs and GAs on July 1, 2009 and July 1, 2010.

11. The AAUP-AFT and Rutgers also agreed to defer the July 1, 2009 EOF counselors’ salary increases to May 31, 2010, to be paid effective the first full pay period after June 1, 2010. The salary increases due on July 1, 2010 were deferred through March 31, 2011, to be paid effective the first full pay period after April 1, 2011.

12. The salary increases for EOF Counselors that the AAUP-AFT agreed to defer to June 1, 2010 were to be paid in FY 2010. The deferral of July 1, 2009 increases for EOF Counselors was negotiated after the FY 2010 Appropriations Act was enacted.

13. In or about April 2010, TAs and GAs received notice of their reappointments along with their salaries for the 2010-2011 academic year. The salaries to be paid to TAs and GAs for the 2010-2011 fiscal year reflected the 8% increase due on July 1, 2010 under the Faculty CNA.

14. On June 10, 2010, Rutgers Executive Vice President for Academic Affairs, Philip Furmanski, issued a memorandum to the Rutgers community announcing that the administration would not implement any negotiated salary increases for Rutgers employees. Rutgers informed the AAUP-AFT of the memorandum approximately thirty minutes prior to its issuance.

15. By a letter dated June 10, 2010, Vivian Fernandez, Vice President for Faculty and Staff Resources, notified the AAUP-AFT that the University was withholding the 5.3% salary increase to be paid under the terms of the EOF MOA on June 1, 2010.

16. By a letter dated June 15, 2010, Furmanski notified the AAUP-AFT that the University will withhold the deferred enhanced salary increases to full-time faculty to be paid July 1, 2010 under the Faculty MOA, and that it will withhold all salary increases to TAs and GAs to be paid on July 1, 2010 under the Faculty CNA.

17. The AAUP-AFT has filed three grievances pertaining to the withholding of negotiated salary increases. A grievance was filed on behalf of faculty members who will not be receiving the deferred salary increases under the Faculty MOA. A second grievance was filed on behalf of EOF Counselors who did not receive the salary increases due to be paid the first pay period in June 2010 pursuant to the EOF MOA. A third grievance was filed on behalf of TAs and GAs who will not receive the salary increases scheduled to be paid July 1, 2010 under the Faculty CNA and on behalf of faculty who will not receive promotional adjustments to be paid on July 1, 2010. The third grievance

also alleges that Rutgers is violating the provisions of the Faculty CNA that require increases in minimum salaries for TAs and GAs effective July 1, 2010. All the grievances seek expedited arbitration.

18. By refusing to pay the negotiated wage increases under the Faculty CNA, the Faculty MOA, and the EOF MOA, Rutgers has repudiated the parties' agreements and violated sections 5.4(a)(1) & (5) of the Act.

19. By refusing to pay the negotiated wage increases, Rutgers' has irreparably damaged the parties' collective negotiations relationship and chilled any possible negotiations.

Relief Requested:

A. The AAUP-AFT requests the relief set forth in the Order to Show Cause filed coincident with this unfair practice charge.

B. The AAUP-AFT further seeks an order directing Rutgers:

- (1) To cease and desist repudiating the Faculty MOA, the EOF MOA and the Faculty CNA and otherwise violating subsections 5.4(a)(1) and (5) of the EERA;
- (2) To make employees whole for all economic losses sustained as a result of its repudiation of its collective negotiations agreements with the AAUP-AFT;
- (3) To post all appropriate notices; and
- (4) To award all such other relief as PERC deems just and proper.